

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

Charles E. Hewitt,

Plaintiff,

vs.

Commissioner of Social Security,

Defendant.

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CASE NO. 1:11-CV-2682

OPINION & ORDER

[Resolving Doc. Nos. [1](#), [19](#) & [21](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Plaintiff Charles E. Hewitt challenges the final decision of the Commissioner of Social Security, denying Plaintiff's claim for disability insurance benefits and supplemental social security income.^{1/} Specifically, Plaintiff Hewitt asserts five assignments of error: first, that the Administrative Law Judge ("ALJ") improperly evaluated the opinions of Hewitt's treating physicians; second, that the ALJ erred by failing to label certain impairments as severe; third, that the ALJ's residual functional capacity analysis lacks substantial support in the record; fourth, that the ALJ assigned improper weight to the medical opinions of non-treating physicians; and fifth, that the ALJ erred by failing to conduct a supplemental hearing after Hewitt had failed to attend an initial hearing.^{2/}

This matter was referred to Magistrate Judge McHargh pursuant to Local Rule 72.2. On November 16, 2012, Magistrate Judge McHargh recommended that the Commissioner's decision

^{1/}Doc. [1](#).

^{2/}Doc. [14](#).

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denying benefits be vacated and the case remanded to the Social Security Administration.^{3/}

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection.^{4/} Parties must file any objections to a Report and Recommendation within fourteen days of service.^{5/} Failure to object within this time waives a party's right to appeal the district court's judgment.^{6/} Absent objection, a district court may adopt the magistrate judge's report without review.^{7/}

In this case, neither party has objected to the Magistrate Judge's recommendation.^{8/} Moreover, having conducted its own review of the record and the parties' briefs in this case, the Court agrees with the conclusions of Magistrate Judge McHargh.

Accordingly, the Court **ADOPTS** in whole Magistrate Judge McHargh's Report and Recommendation and incorporates it fully herein by reference, and **VACATES** the decision of the Commissioner of Social Security and **REMANDS** for proceedings consistent with the Report and Recommendation. The Court also **GRANTS** Plaintiff's motion to file a motion for attorneys' fees

^{3/}Doc. 19.

^{4/}28 U.S.C. § 636(b)(1)(C).

^{5/}Id.; Fed. R. Civ. P. 72(b)(2).

^{6/}Thomas v. Arn, 474 U.S. 140, 145 (1985); United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981).

^{7/}See Thomas, 474 U.S. at 149.

^{8/}See doc. 20 (indicating that the government would not file any response).

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within ninety days from the date of a favorable decision issued by the Social Security Administration upon remand.^{9/}

IT IS SO ORDERED.

Dated: February 21, 2013

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

^{9/}Doc. [21](#).